



PLATE "B"
SWITCHING STEP SHOWING INSIDE RELIEF FOR CLEARANCE OF SIX-WHEEL TRUCK

[41 FR 37783, Sept. 8, 1976]

§ 231.31 Drawbars for freight cars; standard height.

(a) Except on cars specified in paragraph (b) of this section—

(1) On standard gage (56½-inch gage) railroads, the maximum height of drawbars for freight cars (measured perpendicularly from the level of the tops of the rails to the centers of the drawbars) shall be 34½ inches, and the minimum height of drawbars for freight cars on such standard gage railroads (measured in the same manner) shall be 31½ inches.

(2) On 36-inch gage railroads, the maximum height of drawbars for freight cars (measured perpendicularly from the level of the tops of the rails to the centers of the drawbars) shall be 26 inches, and the minimum height of drawbars for freight cars on such 36-inch gage railroads (measured in the same manner) shall be 23 inches.

(3) On 24-inch gage railroads, the maximum height of drawbars for freight cars (measured perpendicularly from the level of the tops of the rails to the centers of the drawbars) shall be 17½ inches, and the minimum height of drawbars for freight cars on 24-inch gage railroads (measured in the same manner) shall be 14½ inches.

(4) On railroads operating on track with a gage other than those contained in paragraphs (a)(1) through (a)(3) of this section, the maximum and minimum height of drawbars for freight cars operating on those railroads shall be established upon written approval of FRA.

(b) This section shall not apply to a railroad all of whose track is less than 24 inches in gage.

[66 FR 4192, Jan. 17, 2001]

§ 231.33 Procedure for special approval of existing industry safety appliance standards.

(a) *General.* The following procedures govern the submission, consideration and handling of any petition for special approval of an existing industry safety appliance standard for new construction of railroad cars, locomotives, tenders, or other rail vehicles.

(b) *Submission.* An industry representative may submit a petition for special approval of an existing industry safety appliance standard for new construction. A petition for special approval of an industry standard for safety appliances shall include the following:

Federal Railroad Administration, DOT

§ 231.33

(1) The name, title, address, and telephone number of the primary individual to be contacted with regard to review of the petition.

(2) An existing industry-wide standard that, at a minimum:

(i) Identifies the type(s) of equipment to which the standard would be applicable and the section or sections within the safety appliance regulations that the existing industry standard would operate as an alternative to for new car construction;

(ii) Ensures, as nearly as possible, based upon the design of the equipment, that the standard provides for the same complement of handholds, sill steps, ladders, hand or parking brakes, running boards, and other safety appliances as are required for a piece of equipment of the nearest approximate type(s) already identified in this part;

(iii) Complies with all statutory requirements relating to safety appliances contained at 49 U.S.C. 20301 and 20302; and

(iv) Addresses the specific number, dimension, location, and manner of application of each safety appliance contained in the industry standard;

(3) Appropriate data or analysis, or both, for FRA to consider in determining whether the existing industry standard will provide at least an equivalent level of safety;

(4) Drawings, sketches, or other visual aids that provide detailed information relating to the design, location, placement, and attachment of the safety appliances;

(5) A demonstration of the ergonomic suitability of the proposed arrangements in normal use; and

(6) A statement affirming that the petitioner has served a copy of the petition on designated representatives of the employees responsible for the equipment's operation, inspection, testing, and maintenance under this part, together with a list of the names and addresses of the persons served.

(c) *Service.* (1) Each petition for special approval under paragraph (b) of this section shall be submitted to the FRA Docket Clerk, West Building Third Floor, Office of Chief Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(2) Service of each petition for special approval of an existing industry safety appliance standard under paragraph (b) of this section shall be made on the following:

(i) Designated representatives of the employees responsible for the equipment's operation, inspection, testing, and maintenance under this part;

(ii) Any organizations or bodies that either issued the standard to which the special approval pertains or issued the industry standard that is proposed in the petition; and

(iii) Any other person who has filed with FRA a current statement of interest in reviewing special approvals under the particular requirement of this part at least 30 days but not more than 5 years prior to the filing of the petition. If filed, a statement of interest shall be filed with the FRA Docket Clerk, West Building Third Floor, Office of Chief Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590, and shall reference the specific section(s) of this part in which the person has an interest. A statement of interest that properly references the specific section(s) in which the person has an interest will be posted in the docket to ensure that each statement is accessible to the public.

(d) *FEDERAL REGISTER* document. FRA will publish a document in the *FEDERAL REGISTER* announcing the receipt of each petition received under paragraph (b) of this section. The document will identify the public docket number in the Federal eRulemaking Portal (FeP) where the contents of each petition can be accessed and reviewed. The FeP can be accessed 24 hours a day, seven days a week, via the Internet at the docket's Web site at <http://www.regulations.gov>. All documents in the FeP are available for inspection and copying on the Web site or are available for examination at the DOT Docket Management Facility, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, during regular business hours (9 a.m.-5 p.m.).

(e) *Comment.* Not later than 60 days from the date of publication in the *FEDERAL REGISTER* concerning a petition received pursuant to paragraph (b)

§ 231.33

49 CFR Ch. II (10–1–12 Edition)

of this section, any person may comment on the petition. Any such comment shall:

(1) Set forth specifically the basis upon which it is made and contain a concise statement of the interest of the commenter in the proceeding; and

(2) Be submitted by mail or hand-delivery to the Docket Clerk, DOT Docket Management Facility, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or electronically via the Internet at <http://www.regulations.gov>. Any comments or information sent directly to FRA will be immediately provided to the DOT FeP for inclusion in the public docket related to the petition. All comments should identify the appropriate docket number for the petition to which they are commenting.

(f) *Disposition of petitions.* (1) FRA will conduct a hearing on a petition in accordance with the procedures provided in § 211.25 of this chapter, if necessary.

(2) FRA will normally act on a petition within 90 days of the close of the comment period related to the petition. If the petition is neither granted nor denied within that timeframe, the petition will remain pending unless withdrawn by the petitioner.

(3) A petition may be:

(i) Granted where it is determined that the petition complies with all applicable Federal statutes, that the petition complies with the requirements of this section, and the existing industry safety appliance standard provides at least an equivalent level of safety as the existing FRA standards;

(ii) Denied where it is determined that the petition does not comply with an applicable Federal statute, the petition does not comply with the requirements of this section, or the existing industry safety appliance standard does not provide at least an equivalent level of safety as the existing FRA standards; or

(iii) Returned to the petitioner for additional consideration where it is determined that further information is required or that the petition may be amended in a reasonable manner to comply with all applicable Federal statutes, that petition may be amended to comply with the requirements of this section, or to ensure that the ex-

isting industry standard provides at least an equivalent level of safety as the existing FRA standards. Where the petition is returned to the petitioner, FRA will provide written notice to the petitioner of the item(s) identified by FRA as requiring additional consideration. Petitioner shall reply within 60 days from the date of FRA's written notice of return for additional consideration or the petition will be deemed withdrawn, unless good cause is shown. Petitioner's reply shall:

(A) Address the item(s) raised by FRA in the written notice of the return of the petition for additional consideration;

(B) Comply with the submission requirements of paragraph (b) of this section; and

(C) Comply with the service requirements in paragraph (c) of this section.

(4) When FRA grants or denies a petition, or returns a petition for additional consideration, written notice will be sent to the petitioner and other interested parties.

(5) If a petition is granted, it shall go into effect on the date specified in FRA's written notice granting the petition. If no date is specified in FRA's written notice granting the petition, the effective date shall begin on January 1st, not less than one (1) year and not more than two (2) years from the date of FRA's written notice granting the petition. FRA will place a copy of the approved industry safety appliance standard in the related public docket where it can be accessed by all interested parties.

(6) A petition, once approved, may be re-opened upon good cause shown. Good cause exists where subsequent evidence demonstrates that an approved petition does not comply with an applicable Federal statute; that the approved petition does not comply with the requirements of this section; that the existing industry safety appliance standard does not provide at least an equivalent level of safety as the corresponding FRA regulation for the nearest railcar type(s); or that further information is required to make such a determination. When a petition is re-opened for good cause shown, it shall return to pending status and shall not be considered approved or denied.

(g) *Enforcement.* Any industry standard approved pursuant to this section will be enforced against any person, as defined at 49 CFR 209.3, who violates any provision of the approved standard or causes the violation of any such provision. Civil penalties will be assessed under this part by using the applicable defect code contained in appendix A to this part.

[76 FR 23726, Apr. 28, 2011]

§ 231.35 Procedure for modification of an approved industry safety appliance standard for new railcar construction.

(a) *Petitions for modification of an approved industry safety appliance standard.* An industry representative may seek modification of an existing industry safety appliance standard for new construction of railroad cars, locomotives, tenders, or other rail vehicles after the petition for special approval has been approved pursuant to § 231.33. The petition for modification shall include each of the elements identified in § 231.33(b).

(b) *Service.* (1) Each petition for modification of an approved industry standard under paragraph (a) of this section shall be submitted to the FRA Docket Clerk, West Building Third Floor, Office of Chief Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(2) Service of each petition for modification of an existing industry safety appliance standard under paragraph (a) of this section shall be made on the following:

(i) Designated representatives of the employees responsible for the equipment's operation, inspection, testing, and maintenance under this part;

(ii) Any organizations or bodies that either issued the standard incorporated in the section(s) of the rule to which the modification pertains or issued the industry standard that is proposed in the petition for modification; and

(iii) Any other person who has filed with FRA a current statement of interest in reviewing special approvals under the particular requirement of this part at least 30 days but not more than 5 years prior to the filing of the petition. If filed, a statement of interest shall be filed with FRA's Associate Administrator for Safety and shall ref-

erence the specific section(s) of this part in which the person has an interest.

(c) *FEDERAL REGISTER document.* Upon receipt of a petition for modification, FRA will publish a document in the FEDERAL REGISTER announcing the receipt of each petition received under paragraph (a) of this section. The document will identify the public docket number in the Federal eRulemaking Portal (FeP) where the contents of each petition can be accessed and reviewed. The FeP can be accessed 24 hours a day, seven days a week, via the Internet at the docket's Web site at <http://www.regulations.gov>. All documents in the FeP are available for inspection and copying on the Web site or are available for examination at the DOT Docket Management Facility, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, during regular business hours (9 a.m.-5 p.m.).

(d) *Comment.* Not later than 60 days from the date of publication in the FEDERAL REGISTER concerning a petition for modification under paragraph (a) of this section, any person may comment on the petition. Any such comment shall:

(1) Set forth specifically the basis upon which it is made, and contain a concise statement of the interest of the commenter in the proceeding; and

(2) Be submitted by mail or hand-delivery to the Docket Clerk, DOT Docket Management Facility, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or electronically via the Internet at <http://www.regulations.gov>. Any comments or information sent directly to FRA will be immediately provided to the DOT FeP for inclusion in the public docket related to the petition. All comments should identify the appropriate docket number for the petition to which they are commenting.

(e) *FRA Review.* During the 60 days provided for public comment, FRA will review the petition. If FRA objects to the requested modification, written notification will be provided within this 60-day period to the party requesting the modification detailing FRA's objection.